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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF )  
 )  
DEL VAL INK AND COLOR, INC., ) Docket No. II RCRA-91-0104  
 )  
Respondent )

ORDER DISMISSING COMPLAINT

Complainant first moved to dismiss the complaint in this proceeding without prejudice. Respondent objected, asserting that it was entitled to a dismissal with prejudice. In reply to my order of April 29, 1993, directing Complainant to show cause why the complaint should not be dismissed with prejudice, Complainant stated that it would have no objection to a dismissal with prejudice, although it believes that it is entitled to a dismissal without prejudice.

I find that Respondent is entitled to a dismissal with prejudice. Respondent has shown that Complainant is not likely to prevail on the merits.

Accordingly, it is ordered as follows:

Complainant's motion to dismiss the complaint without prejudice is denied.

The complaint in this matter is dismissed with prejudice.

  
Gerald Harwood  
Senior Administrative Law Judge

Dated: May 26, 1993

In the Matter of Del Val Ink & Color, Inc., Respondent  
Docket No. II-RCRA-91-0104

Certificate of Service

I certify that the foregoing Order Dismissing Complaint, dated May 26, 1993, was sent this day in the following manner to the addressees listed below.

Original by Regular Mail to:

Karen Maples  
Regional Hearing Clerk  
U.S. EPA  
26 Federal Plaza  
New York, NY 10278

Copy by Regular Mail to:

Attorney For Complainant:

Jonathan Sperber, Esquire  
Assistant Regional Counsel  
U.S. EPA  
26 Federal Plaza  
New York, NY 10278

Attorney for Respondent:

Steven A. Hann, Esquire  
Fox, Rothschild, O'Brien  
& Frankel  
2000 Market Street, 10th Fl.  
Philadelphia, PA 19103

  
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Maria Whiting  
Secretary

Dated: May 26, 1993